

S.D.N.Y. - N.Y.C.
13-cv-7237
Patterson, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 7th day of November, two thousand thirteen.

Present:

Robert D. Sack,
Peter W. Hall,
Debra Ann Livingston,
Circuit Judges.

Yahoo!, Inc.,

Petitioner - Appellant,

v.

13-3995

Microsoft Corporation,

Respondent - Appellee.

Appellant, through counsel, moves for a stay, pending appeal, of the district court order confirming an emergency arbitration award. It also moves to expedite the present appeal, and to seal the appellate record. Upon due consideration, it is hereby ORDERED that the Appellant's motion for a stay pending appeal is DENIED because the Appellant has failed to meet the requisite standard. *See In re World Trade Ctr. Disaster Site Litig.*, 503 F.3d 167, 170 (2d Cir. 2007). The temporary stay entered on October 24, 2013, is terminated.

It is further ORDERED that, pursuant to Federal Rule of Appellate Procedure 2, this appeal shall be heard on an expedited basis. Appellant shall file its brief by Noon, December 2, 2013. Appellee shall file its brief by close of business December 20, 2013. A reply brief, if any, shall be filed by

close of business December 27, 2013. The matter shall be set for oral argument as soon as possible on or after January 16, 2014.

It is further ORDERED that this matter is REMANDED to the District Court for the limited purpose of revising the schedule for compliance with the Emergency Arbitrator's award, as the parties may agree or as the District Court may order. *See* 9 U.S.C. § 11(c). The District Court may exercise its discretion to refer the matter to the Emergency Arbitrator with instructions to have that arbitrator reset the schedule. The District Court and, if the matter is referred to him, the Emergency Arbitrator, shall act with all practicable expedition.

Finally, the parties are directed to submit to this Court, within one week of this order, redacted motion papers, exhibits, and other documents, if any, now on file with this court under seal redacting only recitations of trade secrets and other confidential business information, but, as to the latter, only if such business information has not previously been made public. The interim order sealing the record, entered on October 24, 2013, shall remain in effect until that time. Briefs, Appendices and other papers filed in connection with the ongoing appeal may be filed in sealed form but they also must be filed in un-sealed redacted form with any redactions limited to those items and information previously identified.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

The image shows a handwritten signature in cursive script, which appears to read "Catherine O'Hagan Wolfe". The signature is written over a circular official seal. The seal is divided into two horizontal sections: the top half is red and contains the words "UNITED STATES" in white, and the bottom half is blue and contains the words "SECOND CIRCUIT" in white. There are small white stars on either side of the text in the blue section. The signature is written in black ink.